

REMARKS

Applicants acknowledge receipt of the Final Rejection mailed January 21, 2010. Reconsideration of the rejections is respectfully requested in view of the foregoing amendments and the following remarks.

Amendments

Claim 1 has been amended to recite that the wound care device promotes moist wound healing. This amendment is supported in the specification at page 9, lines 25-27. Applicants have also added new dependent claims 38 and 39 which are supported in the specification at page 9, lines 21-23. No new matter has been added.

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Prior Art Rejections

The Examiner has rejected claims 1, 3-4, 6-7, 19-20, 27-28, 30, and 32-37 under 35 U.S.C. § 102(e) as allegedly anticipated by Cleary, et al., U.S. Patent Publication No. 2003/0170308 ("Cleary"). The Examiner also rejected claim 5 under 35 U.S.C. § 103(a) as allegedly being unpatentable over

Cleary. Finally, claims 8-15 and 31 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Cleary and Edgren, et al., U.S. Patent No. 6,245,357 ("Edgren").

Applicants respectfully traverse these rejections.

First, as discussed in the last amendment, claim 1 is plainly distinguishable from Cleary and therefore is not anticipated. Cleary does not teach a device with a maximum absorption of 0.2 g/cm^2 to promote moist wound healing. The Examiner claims that the disclosure in Table 6 of a device with an absorption of 0.223 g/cm^2 anticipates the present claims because:

"The absorption value of Cleary et al. of 0.223 g/cm^2 is equivalent to 0.2 g/cm^2 since the values in the hundredths and thousands positions are not significant enough for the tenths value of 0.2 to increase or [be] mathematically rounded to 0.3."

(Office Action, p. 2). Applicants respectfully submit that the Examiner is wrong both as a factual matter and as a matter of law. An absorption value of 0.223 g/cm^2 is indisputably greater than 0.2. That is, the difference between 0.223 and 0.2 is a positive number (0.023). Although the Examiner asserts that difference between the maximum absorbency permitted in the claims and the absorbency of Cleary's device is "not significant enough"

to matter, she has provided no authority to support her position as to what would or would not be considered "significant." Applicants submit that factually 0.223 is greater than 0.2, and therefore Cleary's device falls outside the scope of the presently pending claims.

It is axiomatic that anticipation requires a showing that each limitation of a claim is found in a single reference, either expressly or inherently. See, e.g. Atofina v. Great Lakes Chem. Corp., 441 F.3d 991, 999 (Fed. Cir. 2006); MPEP 2131. In this case, Cleary does not disclose each of the limitations set forth in independent claim 1. First, it does not disclose a device with a maximum absorbency of 0.2 g/cm². Second, it does not disclose a device which promotes moist wound healing.

Accordingly, Applicants submit that the anticipation rejection must be reconsidered and withdrawn.

Before discussing the obviousness rejection, it would be helpful to briefly describe the presently claimed invention. Independent claim 1 recites a wound care device for the local treatment of pain and to promote moist wound healing. The device incorporates an active pain relieving agent, and has very limited absorbency (a maximum of 0.2 g/cm²). Thus, the presently claimed

device is used as a wound contact layer able to transfer pain relievers to a wound, and which prevents additional dressings from sticking to the wound. The limited absorbency of the device promotes the release of the pain relieving agent and provides moist wound healing conditions.

By contrast, one of the primary purposes of the Cleary dressing is to absorb moisture. For example, Cleary states that "ideal hydrogels adhesives also display very high swelling upon contact with water" (¶ [0007]), and that when its hydrogel composition is used in a wound dressing, "hydrogel compositions that exhibit a high degree of absorbency are preferred" (¶ [0146]). Accordingly, Applicants submit that Cleary clearly teaches away from the use of a low absorbency device, like those required by the present claims.

The Examiner's statement that "it is maintained that it would have *prima facie* obvious to one of ordinary skill in the art...to have modified the wound-covering material [of Cleary] with a reasonable expectation of success" is both unsupported by anything written in Cleary and, in fact, contradicted by Cleary's clear preference for higher absorbency materials.

Applicants respectfully submit that the obviousness rejections can only be made with the use of impermissible hindsight, and respectfully request their withdrawal.

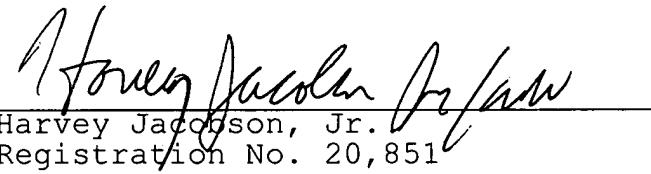
With respect to the obviousness rejections over Cleary in view of Edgren, applicants note that Edgren is directed to an oral dosage form (the reference to claim 28 is not completely understood). The Examiner has not provided any reason, nor is there any such reason, why a person of skill in the art would seek to combine Edgren's teachings with those of Cleary, which is directed to a "patch-like" device. For this reason, in addition to the fact that neither reference teaches or suggests a maximum absorbency of 0.2 g/cm², applicants respectfully submit that the obviousness rejection over Cleary in view of Edgren should be withdrawn.

Conclusion

In view of the foregoing amendments and remarks, applicants respectfully submit that the claims are in condition for allowance, and earnestly solicit prompt notice to that effect. If the Examiner believes a telephone call would advance prosecution, she is invited to telephone the undersigned.

Respectfully submitted,

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May 21, 2010